HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, April 08, 2015
84th Legislature, Number 45
The House convenes at 10 a.m.
Part Two

Seventeen bills are on the daily calendar for second-reading consideration today. The bills on the General State Calendar in Part Two of today's *Daily Floor Report* are listed on the following page.

Alma Allen
Chairman
84(R) - 45

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Wednesday, April 08, 2015

84th Legislature, Number 45

Part 2

SUBJECT: Eliminating Texas Mobility Fund's borrowing ability

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Pickett, Martinez, Y. Davis, Harless, Israel, Murr, Paddie, Phillips, Simmons

0 nays

3 absent — Burkett, Fletcher, McClendon

WITNESSES: For — Terri Hall, Texas TURF & Texans for Toll-free Highways; Don Dixon

Against — None

On — John Thompson, Brazos Transit District; Jeff Heckler, STAR TRANSIT; James Bass, Texas Department of Transportation

BACKGROUND: Voter approval of Proposition 15 in 2001 added Article III, Section 49-k to the Texas Constitution to create the Texas Mobility Fund. The fund, administered by the Texas Transportation Commission, allows for the issuance of debt obligations to finance the construction and maintenance of Texas roadways and other mobility projects. Its ending balance in fiscal 2014 was $364.2 million. In addition to bond proceeds, the Texas Mobility Fund receives revenue from driver's license fees, vehicle inspection fees, and other administrative fees, as well as bond subsidies from the federal government.

DIGEST: CSHB 122 would end the ability of the Texas Mobility Fund to issue bonds and would place conditions on the future use of money within the fund.

The Texas Transportation Commission would be required to use money in the fund not committed to servicing existing debt for the following purposes:

- to pay for the construction and maintenance of state highways, other than toll roads, that have an expected life of at least 10 years without material repair;
- to create debt service accounts;
- to pay interest on bonds for not longer than two years; and
- to refund or cancel outstanding obligations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 122 would bring common sense to highway funding by eliminating the issuance of bonds from the Texas Mobility Fund and instead requiring that its funds be used to wind down debt and eventually pay for roads without the costs associated with borrowing. Taking on bond debt to finance road construction and maintenance was necessary 15 years ago when money was tight and the state had no other way to build needed roads. Now that cash is available to pay for roads directly, Texas should begin the process of paying down existing bond debt and return to the traditional "pay-as-you-go" method of funding roads.

Voter approval of Proposition 1 in November 2014 amended the Texas Constitution to allocate to the State Highway Fund (Fund 6) one-half of the general revenue derived from oil and gas production taxes that formerly was transferred to the rainy day fund. Now that this revenue is available for roads, there is less need to finance road construction and maintenance with debt, which costs the state much more in the long run.

Since the creation of the Texas Mobility Fund in 2001, Texas has accumulated significant debt liabilities. While these bonds are secured through future revenue, the principal of the debt continues to grow. In fiscal 2014, the state spent more than $359 million from the fund on debt service, which is nearly half of the $730 million it spent on transportation projects and maintenance.

The bill would save considerable money in the future by restricting debt now. TxDOT estimates that the early repayment of outstanding variable-rate mobility fund bonds would save $339 million in interest costs over

the life of those bonds. Moreover, by not issuing the additional $900 million in bonds under its current authorization, the department estimates that it would save $1.15 billion in interest fees and other servicing costs over the life of these 30-year bonds.

Debt service has become a significant cost to TxDOT as the Texas Mobility Fund continues to accumulate debt. Already, more than three quarters of money in the fund goes to debt service, and this proportion will only increase in the future. This has negative implications for state's ability to construct and maintain roads necessary to accommodate population and economic growth in Texas. Today, the Texas Transportation Commission makes the minimum payment while continuing to borrow up to the limit. The bill would impose the fiscal discipline necessary to address this problem by cutting up the credit card and paying down the debt in larger chunks.

The Legislature should exercise more control over the Texas Mobility Fund because too much of its money has been taken from road users and applied to other projects, such as toll roads and mass transit. The bill would be a step toward winding down the fund and ensuring that its money was used in the future to retire debt and pay for non-tolled roads on a cash basis.

Although some mass transit agencies have used money from the Texas Mobility Fund in the past, many of these agencies mostly need funding for operational costs or for buses, neither of which is eligible to receive Texas Mobility Fund money under current law.

OPPONENTS SAY:

CSHB 122 would tie the hands of the Texas Transportation Commission and could impede the completion of future transportation projects. Although it may make sense in today's favorable economic climate to pay for Texas roads with cash rather than borrowed money, eliminating the authority to issue bonds through the Texas Mobility Fund could interfere with TxDOT's ability to construct roads in the future when oil and gas revenues might not be sufficient to fill the Fund 6 coffers.

Texas voters acknowledged the need for some borrowing ability to finance road construction and maintenance when they voted to create the

Texas Mobility Fund in 2001. Although the state now has cash on hand to build roads on a pay-as-you-go basis, a growing population of Texans will need more roads in the future, and TxDOT might need to borrow money for this purpose in leaner times. The bill would remove an important tool in the road funding toolbox by eliminating the ability to borrow money through the Texas Mobility Fund.

Although reducing the debt is a wise idea in principle, abruptly cutting off the bonding authority of the Texas Mobility Fund would constrain transportation funding and planning for both rural areas and metropolitan planning authorities. Existing projects at the proposal stage would need to be reworked. Mobility funds often are used to plug holes in funding for projects that largely receive money from other sources.

Because the conditions for using money from the Texas Mobility Fund are more flexible than those for using money from the Texas Highway Fund, mass transit agencies request mobility funds for system expansions and upgrades. These funds also help Texas draw down federal dollars for mass transit because they are included in the local contribution under federal funding formulas. By reducing the amount of money available to support mass transit projects, the bill could impede the ability of state and local authorities to address the transportation needs of a growing population that increasingly may need to rely on mass transit.

OTHER OPPONENTS SAY:

While ending borrowing authority through the Texas Mobility Fund is a good idea, CSHB 122 should be amended to allow TxDOT to refinance debt in the fund. This would allow Texans to get even more value from the state funds that would be used to retire debt and eventually pay for new roads.

NOTES:

The Legislative Budget Board’s fiscal note for CSHB 122 indicates it would have no impact on general revenue funds in fiscal 2016-17 or beyond. The fiscal note assumes that the bill would not allow TxDOT to refinance debt in the Texas Mobility Fund, resulting in estimated bond repayment costs of $146.8 million in fiscal 2017 and $236.7 million in fiscal 2019. In alternating years, the fund would experience savings due to reduced debt service payments, including an estimated $5.3 million in fiscal 2018 and $14 million in fiscal 2020.

CSHB 122 differs from the original in that the bill as filed would have required the Texas Transportation Commission to use uncommitted money in the fund for any purpose for which obligations were issued under Transportation Code, ch. 201, subch. M ("Obligations for certain highway and mobility projects") or to repay debt service on:

- TxDOT short-term notes and loans (Texas Constitution, Art. 3, Sec. 49-m);
- highway tax and revenue anticipation notes (Art. 3, Sec. 49-n); and
- general obligation bonds and other credit agreements supported by Texas highway improvement funds (Art. 3, Sec. 49-p).

The author plans to offer a floor amendment that would allow the Texas Transportation Commission to refinance debt in the Texas Mobility Fund. Under the amendment, the commission could issue obligations to refund outstanding obligations to provide savings to the state. It also could refund outstanding variable rate obligations and renew or replace credit agreements relating to these obligations. The floor amendment also would strike Section 2 of the bill and renumber subsequent sections.

SUBJECT: Requiring uniform procedures for weighing loaded motor vehicles

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Pickett, Martinez, Y. Davis, Harless, Israel, Murr, Paddie, Phillips, Simmons

0 nays

3 absent — Burkett, Fletcher, McClendon

WITNESSES: For — Barry Detlefsen, Coastal Transport Co., Inc.; Kevin Riley, Fowler Transportation, Ltd.; Les Findeisen, Texas Trucking Association; (*Registered, but did not testify*: Donald Baker, Austin Police Department; Robert Turner, Earthmoving Contractors Association of Texas (ECAT); Robert Turner, Texas Poultry Federation; Shayne Woodard, Texas Association of Dairymen; Ronald Hufford, Texas Forestry Association; Joe Morris, Texas Poultry Federation; Shane Haggerty; Liza Montelongo)

Against — None

On — (*Registered, but did not testify*: Steven Rundell, Texas Department of Public Safety)

BACKGROUND: Under Transportation Code, sec. 621.401, a "weight enforcement officer" is a license and weight inspector of the Texas Department of Public Safety (DPS), a highway patrol officer, a sheriff or sheriff's deputy, a municipal police officer in a municipality with a certain population, certain certified police officers, and a constable or deputy constable designated by a county commissioners court as a weight enforcement officer.

Weight enforcement officers may weigh a loaded motor vehicle if they have reason to believe it is unlawfully overweight. They may weigh the vehicles with portable or stationary scales approved by DPS or may require the vehicle to be weighed by a public weigher.

DIGEST: HB 1252 would require DPS in rule to establish uniform weighing

procedures for weight enforcement officers. DPS could revoke the authority of a weight enforcement officer who failed to comply with those weighing procedures.

The bill also would create an affirmative defense to prosecution for operating a vehicle with a single axle weight, tandem axle weight, or gross weight heavier than what is authorized by law if, at the time the weight was determined, the weight enforcement officer failed to follow the weighing procedures established by DPS.

DPS would adopt necessary rules to implement the weighing procedures by January 1, 2016.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

HB 1252 would increase consistency and accuracy in weighing loaded vehicles and promote safety on Texas highways. Training of weight enforcement officers outside of DPS currently is not uniformly regulated and can result in inaccurate weight measurements and citations. The bill would direct DPS to establish rules for uniform weighing procedures, which could include training requirements for weight enforcement officers.

Texas roads would be safer by ensuring that loaded vehicles were weighed more accurately. Accurately weighing a vehicle on portable scales, which many weight enforcement officers use, is difficult without proper instruction. For example, weighing a vehicle on an incline or on uneven ground or weighing each axle separately can result in inaccuracies. HB 1252 would require DPS to provide standards for weighing loaded vehicles so that dangerously overweight vehicles could be identified correctly and penalized accordingly.

The bill would help ensure that citations for overweight vehicles were issued appropriately and consistently. Various permits are available that allow vehicles to weigh above the legal limit in certain cases, making it difficult for weight enforcement officers to determine whether a citation is appropriate. Having uniform weighing procedures and training

requirements would ensure that citations were issued only to violators of legal weight restrictions.

Concerns that the authority granted in HB 1252 would result in unfair or fluctuating rules are unwarranted. DPS already has developed administrative rules for various matters at the direction of the Legislature, and the rules have been reasonable and consistent.

OPPONENTS SAY:

HB 1252 would lack parameters on requirements that DPS could establish and how often the rules could change, which could create a climate of uncertainty for weight enforcement officers.

The bill could allow DPS to implement a wide array of procedures and training requirements, some of which could be expensive or inconvenient for local law enforcement agencies. DPS also could alter the rules for weighing procedures at any time.

Uniform weighing procedures would be helpful, but they should be established through legislation, rather than in rule. Establishing guidance through legislation would ensure that uniform weighing procedures were fair and consistent.

SUBJECT: Prohibiting enrollment limitations on dual credit courses

COMMITTEE: Public Education — favorable without amendment

VOTE: 10 ayes — Aycock, Allen, Bohac, Deshotel, Farney, Galindo, González, Huberty, K. King, VanDeaver

0 nays

1 absent — Dutton

WITNESSES: For — Robin Painovich, Career and Technology Association of Texas; Pam Reece; (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Drew Scheberle, Austin Chamber of Commerce; Robert Schneider, Austin ISD Board of Trustees; Mike Meroney, Huntsman Corporation, Sherwin Alumina, Co.; Ted Melina Raab, Texas American Federation of Teachers; Nelson Salinas, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Grover Campbell and Dominic Giarratani, Texas Association of School Boards; Lindsay Gustafson, Texas Classroom Teachers Association; Ellen Arnold, Texas PTA; Colby Nichols, Texas Rural Education Association; Maria Whitsett, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Julie Cowan)

Against — None

On — Aubrey Wynn Rosser, Greater Texas Foundation; (*Registered, but did not testify*: Von Byer and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code, sec. 28.009(a) requires school districts to implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. That credit may be earned through advanced placement (AP) courses, international baccalaureate courses, local and statewide articulated courses, or dual credit courses.

19 Texas Administrative Code, Part 1, Ch. 4, subch. D, §4.85(b)(8) limits

high school juniors and seniors to enrolling in no more than two dual credit courses per semester. The rule allows exceptions for high school students with demonstrated outstanding academic performance and approval by their high school principal and the chief academic officer of the college to enroll in a maximum of 15 semester credit hours.

The administrative rules, under §4.85(i), allow public institutions of higher education to waive all or part of the tuition and fees for high school students enrolled in dual credit courses. The rules stipulate that state funding for dual credit courses is available both to public school districts and to colleges based on current funding rules of the State Board of Education and the Texas Higher Education Coordinating Board.

DIGEST:

HB 505 would prohibit the Texas Higher Education Coordinating Board from adopting a rule that would limit the number of dual credit courses or hours in which a high school student could enroll each semester or academic year. The rules also could not limit the total number of dual credit courses or hours in which a high school student could enroll while in high school.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply beginning with the 2015-16 school year.

SUPPORTERS SAY:

HB 505 would help high school students be better prepared for college and the workforce by removing the current limit on the number of dual credit courses they can take. Students enrolled in dual credit courses simultaneously may earn credit toward a high school diploma and a college degree or certificate. Removing limits on how many dual credit courses students could take would allow them to earn a higher education degree in less time and save on tuition costs.

The Legislature has established early college high schools to give students the opportunity to graduate with a high school diploma and an associate's degree. However, of 3,263 high schools in the state, only 110 are early college high schools. Students in the majority of high schools should have similar opportunities to earn substantial college credit, and HB 505 would

be a step toward this goal.

Students can earn college credit through AP courses but only if they achieve certain scores on AP exams. Even students who pass AP courses still may opt out of the exam or may score too low to receive college credit. In contrast, students who enroll in dual credit courses receive college credit upon passing a class. A 2011 study on dual credit courses in Texas prepared for the Texas Education Agency (TEA) found that 94 percent or more of students across different subject areas passed their dual credit courses. HB 505 would enable students to earn more credit through the state's highly successful dual credit offerings.

In addition, students would save on tuition costs by taking more dual credit courses in high school, when tuition often is waived by the college or paid by the school district. High tuition costs make college less accessible, and removing limits on dual credit courses would expand opportunities for students who otherwise may not be able to afford higher education.

This bill also would continue the work of HB 5 by Aycock, enacted by the 83rd Legislature in 2013, which allows students who take additional or specific courses to earn endorsements in one of five areas of study. HB 505 would help students earn endorsements by expanding their opportunity to enroll in college courses that may not be offered at their local high schools.

To enroll in dual credit courses, students already must demonstrate college readiness, as measured by the Texas Success Initiative or equivalent performance metrics. This existing requirement would prevent students from overloading their course schedule with difficult college courses. Academically prepared students could take three or four dual credit courses per semester without being overloaded, allowing them to earn considerable college credit in advance and save money.

OPPONENTS SAY:

HB 505 could lead to students overloading their course schedules with rigorous college courses and could result in unanticipated costs and consequences for the students and their families. For example, while tuition might be waived for the courses, students still could incur costs for textbooks and commuting to area community colleges. In addition,

students might be unaware when they enroll that some dual credit courses count toward the calculation of the student's college grade point average.

Increased enrollment in dual credit courses also could raise costs to the state and limit the supply of these offerings. The fiscal note anticipates some additional higher education formula costs beginning in fiscal 2018 due to an increase in dual credit students at higher education institutions. Furthermore, enrollment increases could lead to an inadequate supply of certain courses or courses in certain locations, according to a 2011 report on dual credit courses prepared for TEA. The current limits on dual credit course enrollment should remain in place to avoid these negative consequences.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 505 could result in additional higher education formula costs beginning in fiscal 2018 due to an increase in dual credit students at institutions of higher education, but these costs are not considered significant.

SB 1159 by Estes, the Senate companion bill, has been referred to the Senate Education Committee. SB 13 by Perry, passed by the Senate on March 30, contains a provision with identical language to HB 505.

SUBJECT: Enabling certain saltwater pipelines to be constructed around public roads

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 11 ayes — Darby, Paddie, Anchia, Canales, Craddick, Dale, Herrero, Keffer, P. King, Landgraf, Meyer

0 nays

2 absent — Riddle, Wu

WITNESSES: For — Cyrus Reed, Lone Star Sierra Club; (*Registered, but did not testify*: Matthew Thompson, Apache Corporation; Christie Goodman, Chevron; Stan Casey, Concho Resources Inc.; Marty Allday, Enbridge Energy; Sally Velasquez, Frio County Commissioners Court; David Holt, Permian Basin Petroleum Association; Bill Stevens, Texas Alliance of Energy Producers; Ed Longanecker, Texas Independent Producers And Royalty Owners Association; David Weinberg, Texas League of Conservation Voters; Mari Ruckel, Texas Oil and Gas Association; James Mann, Texas Pipeline Association)

Against — None

On — Bill Hale, Texas Department of Transportation; (*Registered, but did not testify*: Perry Fowler, Texas 811)

BACKGROUND: In 2013, the 83rd Legislature enacted SB 514 by Davis, which amended Natural Resources Code, ch. 91 to allow the construction of saltwater pipeline facilities through, under, along, across, or over a public road to conduct saltwater byproducts away from oil and gas production operations. SB 514 defined "saltwater pipeline facility" as a pipeline facility that "conducts water containing salt and other substances produced during drilling or operating an oil, gas, or other type of well."

DIGEST: HB 497 would amend the definition of "saltwater pipeline facility" in Natural Resources Code, ch. 91 to include pipeline facilities that conduct saltwater intended to be used in drilling or operating an oil or gas well.

This would include pipelines conducting saltwater to injection wells used for enhanced recovery operations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

HB 497 would clarify a provision in current law that is intended to enable operators to construct pipelines through, under, along, across, or over a public road for the purpose of conducting saltwater to oil and gas production or drilling operations. The enactment of SB 514 in 2013 was meant to permit this, but the statutory language allowed only the construction of pipelines conducting saltwater away from (and not to) oil and gas producing operations.

Currently, saltwater is moved by heavy tanker trucks, which damage road surfaces, contribute to congestion and traffic, and cause noise and air pollution. This bill would allow the construction of saltwater pipelines that would reduce this activity.

The bill would leave in place other provisions of state law — as well as Texas Transportation Commission rules and local regulations —that govern the activities of pipeline operators with regard to public roads, including a requirement that the operator restore the road and associated facilities to their former condition of usefulness after the construction or maintenance of a pipeline.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Expanding definition of disabled person for crime of injury to such person

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — Amy Connor, Autism Society of Central Texas; Dennis Borel, Coalition of Texans with Disabilities; Shane Haggerty; Stacy Woodruff; (*Registered, but did not testify*: Ann Hettinger, Concerned Women for America of Texas; Cate Graziani, Mental Health America of Texas)

Against — None

On — Belinda Carlton, Texas Council on Developmental Disabilities; (*Registered, but did not testify*: Michael Lesko, Texas Department of Public Safety; Shannon Edmonds, Texas District and County Attorneys Assn.)

BACKGROUND: Penal Code, sec. 22.04 governs the offense of injury to a child, elderly individual, or disabled individual. Under this law, a "disabled individual" is a person older than age 14 who is substantially unable to protect himself or to provide food, shelter, or medical care for himself due to age or a physical or mental disease, defect, or injury.

DIGEST: HB 1286 would expand the definition of disabled individual in Penal Code, sec. 22.04, which governs the offense of injury to a child, elderly individual, or disabled individual.

Under the bill, "disabled individual" would include a person of any age who was unable to protect or provide for the person's self due to age or a physical or mental disease, defect, or injury. The bill further would define disabled individual to mean a person with one or more of the following conditions:

- autism spectrum disorder;

- developmental disability;
- intellectual disability;
- severe emotional disturbance; or
- traumatic brain injury.

HB 1286 would specify the inclusion of nondisabled and disabled child victims under the section that currently allows for an affirmative defense to prosecution if the actor was not more than three years older than the victim and the victim was a child at the time of the offense.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

HB 1286 would help ensure the proper punishment of those who choose to harm disabled individuals. Expanding the definition of a disabled individual and including victims younger than 14 years old would ensure the protection of children with certain disabilities who are among the most vulnerable members of society.

The definition of a disabled individual under current law is limited and does not sufficiently protect disabled victims younger than 14. The definition under HB 1286 would include people of all ages and those with certain conditions who might otherwise not be covered under current law. For example, some individuals with diagnosed autism may not be protected because the autism spectrum is broad enough to include people who are disabled but remain able to provide food, shelter, or medical care for themselves. HB 1286 would clarify that these individuals, including children with autism who are younger than 14, were protected under the law.

HB 1286 would not add a new crime but would give prosecutors options when trying cases in which the defendant was accused of injuring a disabled person who is also a child. Under current law, an individual accused of injuring a disabled person younger than 14 years old can be prosecuted for the crime of injuring a child but not for injuring a disabled person. The bill would allow prosecutors to seek convictions in such cases under either part of Penal Code, sec. 22.04, which creates an offense for injuring a child as well as for injuring a disabled person. This would allow

the conviction in such a case to more accurately reflect the crime committed.

OPPONENTS SAY:

HB 1286 would make unnecessary changes to the current definition of disabled individuals that could end up limiting the group of disabled individuals protected by the statute. Removing the age restriction would have no practical effect because current law already protects from injury any child under the age of 14, whether disabled or not.

In addition, the bill would preserve outdated language that describes people with disabilities in current law while adding specific medical conditions to the definition of "disabled individual" that might not include all disabled individuals who should benefit from the law's protection. For example, a person with a brain injury that did not meet the definition of "traumatic brain injury" might not be considered a disabled person under Penal Code, sec. 22.04 as amended by the bill.

SUBJECT: Transfer of certain offenders while appealing felony convictions

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Murphy, J. White, Allen, Keough, Krause, Schubert, Tinderholt

0 nays

WITNESSES: For — Caprice Cosper, Harris County; AJ Louderback, Sheriffs' Association of Texas; (*Registered, but did not testify*: Seth Mitchell, Bexar County Commissioners Court; Charles Reed, Dallas County; Donna Warndof, Harris County; Justin Wood, Harris County District Attorney's Office; Mark Mendez, Tarrant County Commissioners Court)

Against — None

On — (*Registered, but did not testify*: Bryan Collier, Texas Department of Criminal Justice)

BACKGROUND: Under Code of Criminal Procedure, art. 42.09, sec. 3, criminal defendants convicted of felonies and sentenced to death, life, or terms of more than 10 years in the Texas Department of Criminal Justice (TDCJ) system who give notice of appeals must be transferred to TDCJ, pending a mandate from the appeals court.

Under Code of Criminal Procedure, art. 44.04(b), defendants who are appealing convictions may not be released on bail for felony convictions for which the punishment is 10 years or more or for convictions for an offense listed in art. 42.12, sec. 3g(a)(1). This section contains a list of certain serious and violent crimes that are ineligible to receive judge-ordered community supervision (probation) and are often referred to as "3g" offenses.

DIGEST: HB 904 would require offenders appealing felony convictions and ineligible for bail under Code of Criminal Procedure, art. 44.04(b) to be transferred to TDCJ.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

HB 904 is needed to make the state's system of transferring offenders to TDCJ more fair and to relieve counties from housing offenders who should be housed by the state.

Current law does not mandate transfer to TDCJ from county jails for certain people who have been convicted of crimes and sentenced to prison if they received a sentence of 10 years or less and are appealing the conviction. If these defendants cannot make an appeal bond, they remain in the county jail while the case is appealed. Housing these offenders has become burdensome for some counties as the Legislature has gradually restricted the right to an appeal bond.

HB 904 would help alleviate this burden by requiring all offenders who were ineligible for bail to be transferred to TDCJ during their appeals. The bill would affect mainly two small groups not currently sent to TDCJ: offenders with sentences of exactly 10 years and "3g" offenders with sentences of less than 10 years. These offenders have been sentenced to prison either for a long term or for a violent offense and should be housed by the state while their appeals are pending, especially now that the state has available prison beds.

HB 904 would not burden the state. The Legislative Budget Board's fiscal note estimates no fiscal implication to the state. TDCJ currently has about 2,300 empty prison beds and could easily handle any offenders transferred to the agency under the bill.

OPPONENTS SAY:

No apparent opposition.

SUBJECT: Expanding eligibility for certain energy savings performance contracts

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 11 ayes — Darby, Paddie, Anchia, Canales, Craddick, Dale, Herrero, Keffer, P. King, Landgraf, Meyer

0 nays

2 absent — Riddle, Wu

WITNESSES: For — Glenn Gaines, Schneider Electric; (*Registered, but did not testify*: Matthew Thompson, Apache Corporation; Christie Goodman, Chevron; Jeff Coyle, City of San Antonio; Cyrus Reed, Lone Star Sierra Club; David Holt, Permian Basin Petroleum Association; David Weinberg, Texas League of Conservation Voters; Monty Wynn, Texas Municipal League; Jackie Mason, Texas Propane Gas Association)

Against — None

BACKGROUND: Energy savings performance contracting is a construction financing method that allows an entity to finance the completion of energy-saving improvements with money saved through reduced utility expenses.

To enter into an energy savings performance contract, an entity must notify the Comptroller's State Energy Conservation Office of its intent, issue a request, and select a contractor, usually an energy service company. After identifying eligible projects, the contractor designs and installs the needed improvements. The entity pays for the financed project out of savings realized by the improvements. By law, the contractor must guarantee that the savings will be at least equal to the payments for the cost of the improvements over the term of the contract. After the contract ends, all additional cost savings benefit the entity.

Current Texas law allows institutions of higher education, state agencies, public school districts, and local governments to enter into energy savings performance contracts.

Local Government Code, ch. 302 provides for energy savings performance contracts for local government buildings and grounds. These contracts are between a local government and a provider for energy or water conservation or usage measures in which the estimated energy savings, increase in billable revenues, or increase in meter accuracy is guaranteed to offset the cost of the energy-saving improvement measures over a specified period.

DIGEST:

CSHB 1184 would amend Local Government Code, ch. 302 to add "utility cost savings" as a type of energy savings that could offset the cost of an energy-saving improvement measure for local government buildings and grounds under a performance contract.

The bill also would add the following to the list of projects eligible for energy saving performance contracts for local governments:

- alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles; and
- programs resulting in utility cost savings.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 1184 would allow local governmental entities to take advantage of new energy and utility savings opportunities through performance contracting, which would improve efficiency and reduce costs. These entities currently can enter into energy savings performance contracts without any upfront investments to install more efficient systems or equipment that will result in long-term savings in energy, water, or other costs. Instead, projects are financed out of savings realized by improvements. Recently, new opportunities have been identified to expand performance contracting. CSHB 1184 would allow for flexibility as new innovations were developed and made available so that those savings could be captured and used for improvements.

Specifically, the bill would add alternative fuel programs for vehicles and programs resulting in utility cost savings to the list of projects eligible for performance contracting. These additions would allow local governmental entities to update their vehicle fleets to be more cost-efficient as well as give local governments flexibility to use performance contracting for telecommunications-related utility savings or for reduced-cost energy procurement.

While variables such as driver behavior could cut into fuel savings of vehicle fleets, the same is true of any energy improvement if it is not used conservatively. For example, an energy-efficient lighting system might not yield the savings expected if lights are continually left on when leaving a room. Concerns over variables such as bad operator behavior might make drawing up a contract challenging, but contractors and local governmental entities would have to come to a mutually beneficial agreement before moving forward.

OPPONENTS SAY:

Energy savings performance contracts typically have been used to retrofit fixed assets, such as HVAC systems, lighting, or thermostat control systems. Contracts to update a vehicle fleet running on alternative fuels could be challenging because the contract would need to account for variables, such as driver behavior, which could cut into fuel savings.

NOTES:

Unlike the bill as introduced, the committee substitute would add "utility cost savings" as an energy savings that could offset the cost of an energy-saving improvement measure for local government buildings and grounds under a performance contract. The committee substitute also would add "programs resulting in utility cost savings" to the list of projects eligible for energy saving performance contracts.

SUBJECT: Protective orders for continuous trafficking victims; victim information

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — Chris Kaiser, Texas Association Against Sexual Assault; Andria Brannon; (*Registered, but did not testify*: Kathryn Freeman, Christian Life Commission; Melinda Smith, CLEAT, the Combined Law Enforcement Associations of Texas; Jessica Anderson, Houston Police Department; Lon Craft, TMPA; Julie Bassett)

Against — None

BACKGROUND: Code of Criminal Procedure, Art. 7A.01(a) governs protective orders issued for victims of sexual assault or abuse, stalking, and trafficking. Under the provisions, victims of certain crimes, their parents or guardians, and prosecutors acting on behalf of the victims may file applications with courts for protective orders without regard to their relationship to alleged offenders. Victims of trafficking of persons and compelling prostitution are included among those who may file such applications.

Code of Criminal Procedure Art. 56.021 gives victims of sexual assault and their guardians and the close relatives of deceased victims certain rights, many of which relate to information about evidence in their case.

DIGEST: CSHB 1447 would add victims of the offense of continuous trafficking of persons to the list of those who could file an application with a court for a protective order without regard to their relationship to the alleged offender. Parents or guardians acting on behalf of a continuous trafficking victim younger than age 18 also could file applications for a protective order.

The bill would add rights relating to the filing of protective orders to the list of rights afforded specifically to victims of certain sex crimes. The

rights added by CSHB 1447 would apply to victims and parents or guardians of victims of the following crimes: trafficking of persons, continuous trafficking of persons, continuous sexual abuse of young children, indecency with a child, sexual assault, aggravated sexual assault, stalking, and compelling prostitution.

CSHB 1447 would give such victims and their parents or guardians the right to be informed:

- that they may file an application for a protective order; and
- of the court in which to file the application.

It also would give such victims and their parents or guardians the right to have a prosecutor, upon their request, file an application for a protective order on their behalf and to be informed of this right.

If a victim or victim's parent or guardian were present when a defendant was convicted or placed on deferred adjudication, they would have the right to receive the above information from the court. If the convicting court had jurisdiction over protective orders in cases of sexual assault or abuse, stalking, or trafficking, victims could immediately file a request for an order. If the victim or the victim's parent or guardian were not present at sentencing, that person would have the right to receive the above information from the prosecutor.

CSHB 1447 would take effect September 1, 2015, and would apply to victims of a crime for which a judgment was entered or a grant of deferred adjudication made on or after that date, regardless of when the offense occurred.

SUPPORTERS SAY:

CSHB 1447 would include victims of the crime of continuous trafficking of persons among victims of similar crimes who may get protective orders under procedures designed specifically for victims of sexual assault or abuse, stalking, or trafficking. The continuous trafficking of persons is similar in nature to these other crimes, and continuous trafficking victims warrant access to the same procedures to protect themselves, if necessary.

Other provisions of the bill are needed to ensure that victims of sexual

assault, trafficking, stalking, and other similar offenses receive information about requesting protective orders that could help keep them safe. The state has enacted specific procedures for protective orders involving these crimes, but not all victims are aware of the availability of the orders or the procedures to request them.

CSHB 1447 would address this problem by giving victims the right to information about protective orders and how to request them. The bill would set up a process so that upon sentencing, victims or their families received information from courts or prosecutors about requesting a protective order. Because of the intimate nature of sexual assault and abuse, stalking, and trafficking, these victims can be especially vulnerable and deserve an explicit right to protective order information.

It is especially important that these victims receive this information upon sentencing because at that time, protections that may have been afforded by a bond would expire. CSHB 1447 would make sure that victims received protective order information whether or not they were present during sentencing.

CSHB 1447 would address the providing of information only. Decisions about issuing protective orders would continue to be made by judges.

OPPONENTS SAY:

CSHB 1447 should take a more limited approach by giving victims the right to *request* that a prosecutor file a protective order rather than the right to have the prosecutor file one. Elected prosecutors act within their discretion in the best interests of justice, and while victims should be told of the option to file a protective order, the filing of the order itself should not be made a right for victims. It would be more appropriate to require prosecutors to give victims information about their right to request a protective order. Prosecutors give other information to victims, so it would not be burdensome to require them to include information about protective orders for certain crimes.

NOTES:

Rep. Dale plans to offer a floor amendment that would amend CSHB 1447's provisions giving victims the right to have a prosecutor file an application for a protective order so that instead victims had the right to request that a prosecutor file a protective order application.

HB 1447 as filed would have required prosecutors to promptly file an application for a protective order on behalf of victims upon a conviction for continuous sexual assault of young children, indecency with a child, sexual assault, and aggravated sexual assault. The committee substitute eliminated this requirement and added all the provisions in CSHB 1447.

A companion bill, SB 630 by Rodriguez, was approved by the Senate on March 25.

SUBJECT: Granting tax assessors access to criminal histories for certain purposes

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

WITNESSES: For — J. R. Harris, Harris County Tax Assessor-Collector's Office; Nicole Czajkoski, Montgomery County District Attorney's Office; Kevin Kieschnick, Tax Assessor-Collectors Association of Texas; (*Registered, but did not testify*: Charles Reed, Dallas County; Tammy McRae, Montgomery County)

Against — None

BACKGROUND: Under Transportation Code, ch. 520, subch. E, county tax assessor-collectors in counties with a population greater than 500,000 or in which the commissioner's courts have adopted Subchapter E are responsible for determining the business reputation and character of applicants for motor vehicle title service licenses. County tax assessor-collectors also are responsible for establishing grounds for the denial, suspension, revocation or reinstatement of a license.

Under sec. 520.051, a motor vehicle title service is any person or entity that for compensation assists other people in obtaining title documents by submitting, transmitting, or sending applications for title documents to the appropriate government agencies.

Government Code, sec. 411.084 limits the use of criminal history record information to the authorized recipient of the information and restricts the release of the information by the authorized recipient unless authorized by statute or court order.

DIGEST: HB 2208 would authorize county tax assessor-collectors to obtain Department of Public Safety criminal history record information about

91applicants for motor vehicle title service licenses.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY:

HB 2208 would discourage and prevent title fraud. County tax assessor-collectors currently have access to records relating to convictions for crimes committed within the county, but are unable to easily find convictions from other counties. Assessor-collectors are therefore unable to determine if an applicant has committed title fraud in other parts of the state or country. The bill would deter title fraud by ensuring that those who commit fraud cannot simply jump from jurisdiction to jurisdiction obtaining licenses to operate title services without being detected.

The bill would give assessor-collectors the same access to information that other state agencies use to obtain criminal histories on individuals seeking licenses from those agencies. The bill would allow criminal history checks only on people who apply for licenses. The bill is subject to the safeguards in Government Code, sec. 411.084 that restrict the release of criminal history information.

OPPONENTS SAY:

While preventing title fraud is important, this bill would add to the list of entities with access to DPS criminal history reports. These reports can contain damaging and even inaccurate information, and expanding access to this information could increase the possibility of its dissemination and unauthorized release. The state should be cautious about continuing to authorize expanded access to criminal history information that could be misused and misinterpreted.

NOTES:

The companion bill, SB 1577 by Hinojosa, was referred to the Senate Transportation Committee on March 23.